

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

**DECISION AND  
ORDER**  
09-CR-329-A

THAMUD ELDRIDGE, KEVIN ALLEN  
and GALEN ROSE,

Defendants.

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This case was referred back to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B) for further pretrial proceedings. The Magistrate Judge conducted evidentiary hearings on March 19, 2014, April 1, 2014, April 23, 2014 and July 2, 2014. On August 25, 2014 Magistrate Judge Scott filed a Report and Recommendation recommending that defendant Allen's motion to dismiss the counts of the indictment regarding the Jones murder should be denied, and that the defendant's request for disclosure of *Jencks* material and a spoliation instruction should also be denied. (Dkt. No. 332) No objections were filed and the time to file objections has expired.

Upon the Court's *de novo* review and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, it is hereby **ORDERED** that defendant Allen's motion to dismiss the counts of the indictment regarding the Jones murder is denied, and that the defendant's request for immediate disclosure of *Jencks* material and a spoliation instruction is also denied.

All parties shall appear for a status conference on October 1, 2014 at 12:30 pm.  
At that time, the Court will address the scheduling of defendants' outstanding motions.

**IT IS SO ORDERED.**

Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT COURT

Dated: September 29, 2014